

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LINDA L. BROCKMAN and U.S. POSTAL SERVICE,
POST OFFICE, West Des Moines, IA

*Docket No. 02-1322; Submitted on the Record;
Issued November 6, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, COLLEEN DUFFY KIKO,
MICHAEL E. GROOM

The issues are: (1) whether appellant sustained injury to her right and left knees causally related to employment factors; and (2) whether the Office of Workers' Compensation Programs abused its discretion in refusing to reopen appellant's claim for further merit review under 5 U.S.C. § 8128(a).

On December 10, 2001 appellant, then a 50-year-old letter carrier, filed an occupational disease claim alleging injury to her right and left knee causally related to employment factors. Appellant noted that she first realized that her condition was caused or aggravated by her employment on December 20, 1994. The record reflects that appellant was last exposed to conditions alleged to have caused the claimed condition on December 4, 2001.

By decision dated March 11, 2002, the Office denied appellant's claim on the grounds that the medical evidence failed to establish a causal relationship between the claimed conditions and factors of appellant's federal employment.

The Board finds that appellant has failed to establish that she sustained pain in her right and left knees in the performance of duty, causally related to factors of her federal employment.

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) a factual statement identifying the employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition;¹ (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed;² and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the

¹ See *Walter D. Morehead*, 31 ECAB 188, 194 (1979).

² See *Ronald K. White*, 37 ECAB 176, 178 (1985).

diagnosed condition is causally related to the employment factors identified by the claimant.³ The medical evidence required to establish causal relationship, generally, is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence, which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant,⁴ must be one of reasonable medical certainty⁵ and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁶

Appellant has not submitted such rationalized medical evidence supporting her claim in this case. Appellant submitted progress notes from the Northwest Medical Clinic and treatment notes from Dr. Joe Fellows, a Board-certified orthopedic surgeon, dated from December 20, 1994 through February 12, 2002, which discussed treatment of various conditions including appellant's bilateral knee pain. In a December 20, 1994 progress note, it was reported that appellant had swelling, tenderness with cracking and crepitation in her knees over the last several years and that she did a lot of work in her mail carrier position such as climbing in and out of her jeep or truck and climbing stairs. In a February 6, 1998 progress note, it was reported that appellant was a postal employee who performed sedentary work and carried a route doing sub work and that she had bilateral knee pain for a number of years. The report further discussed that appellant occasionally carried mail over very hilly, rugged terrain and that appellant's legs seemed to bother her on stairs.

In an April 27, 2001 note, Dr. Fellows stated that appellant worked for the past 10 to 12 years as a mail carrier and noted that appellant's complaints of increased pain and discomfort in both knees, right greater than left, particularly on stairs, with going up and down stairs, with squatting, etc. and noted that she did a fair amount of these activities daily. He opined that it could be argued either way whether appellant's medical condition was caused or aggravated by her work activities.

In his February 12, 2002 report, Dr. Fellows stated that appellant had increased pain in her left knee and opined that her work was aggravating the knee when she had to get in and out of the vehicle, walk, go up and down steps, which irritated her left knee.

The Board notes, however, that this report and others submitted are insufficient to establish causal relationship. Although Dr. Fellows noted appellant's pain complaints with certain work activities, he failed to provide a medical diagnosis for the knee condition or an opinion explaining how appellant's bilateral knee condition was caused or aggravated by specific factors of her federal employment. Dr. Fellows opined that it could be argued either way whether appellant's medical condition was caused or aggravated by her work activities.

³ See generally *Lloyd C. Wiggs*, 32 ECAB 1023, 1029 (1981).

⁴ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁵ See *Morris Scanlon*, 11 ECAB 384-85 (1960).

⁶ See *William E. Enright*, 31 ECAB 426, 430 (1980).

Dr. Fellow's opinion on causal relationship is equivocal. The Board has held that speculative and equivocal medical opinions regarding causal relationship are of diminished probative value.⁷ Dr. Fellow's report did not include a rationalized opinion regarding the causal relationship between appellant's condition and the factors of employment believed to have caused or contributed to such condition, rather he indicated that he could not make such a determination.⁸ Therefore, this report is insufficient to meet appellant's burden of proof.

In a subsequent report dated February 12, 2002, Dr. Fellows indicated that appellant had increased pain in her left knee and then opined that her work was aggravating the knee when she had to get in and out of the vehicle, walk and go up and down steps. Dr. Fellows only referred to appellant's left knee in this report and failed to provide a medical diagnosis for her condition. Further, he provided no medical reasoning or rationale to support his opinion. The Board has found that vague and unrationalized medical opinions on causal relationship have little probative value.⁹ Therefore, this report is insufficient to meet appellant's burden of proof.

The remainder of the medical evidence fails to provide an opinion on the causal relationship between appellant's employment factors and appellant's claimed bilateral knee condition. For these reasons, such evidence is not sufficient to meet appellant's burden of proof. The Office, therefore, properly denied her claim.¹⁰

⁷ See *Alberta S. Williamson*, 47 ECAB 569 (1996); *Frederick H. Coward, Jr.*, 41 ECAB 843 (1990); *Paul E. Davis*, 30 ECAB 461 (1979).

⁸ See *Theron J. Barham*, 34 ECAB 1070 (1983) (where the Board found that a vague and unrationalized medical opinion on causal relationship had little probative value).

⁹ *Id.*

¹⁰ The Board notes that following her appeal to the Board on April 29, 2002, the Office issued a decision denying reconsideration on June 6, 2002. This decision is null and void. See *Douglas E. Billings*, 41 ECAB 880 (1990).

Accordingly, the June 6 and March 11, 2002 decisions of the Office of Workers' Compensation Programs are hereby affirmed.

Dated, Washington, DC
November 6, 2002

Michael J. Walsh
Chairman

Colleen Duffy Kiko
Member

Michael E. Groom
Alternate Member